



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,245	10/10/2001	Roger H. Tracy	29093-03	1190

24998 7590 02/28/2003

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L STREET NW
WASHINGTON, DC 20037-1526

EXAMINER

ALLEN, ANDRE J

ART UNIT PAPER NUMBER

2855

DATE MAILED: 02/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N

09/889,245

Applicant(s)

TRACY ET AL.

Examiner

Andre J. Allen

Art Unit

2855

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 December 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 19-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 19-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coe et al in view of Whitehead and Kitazume. Coe et al teaches the basic features of the claimed invention for example;

In claims 1 and 8 a housing 30, said housing having a proximal end and a distal end{fig. 1} range finding means {col.4 lines 25-40}carried within said housing and oriented so that said range finder directs a beam of light; {col. 4 lines 25-40}

tire-engaging means {fig. 1} means carried by said housing and in operational connection with said range finding means {fig. 1}{abstract}.

In claims 1 and 8 Coe teaches a housing that directs a beam of light, but does not explicitly teach a window formed on the housing, however it would have been obvious to a person having ordinary skill in the art at the time the

invention was made to provide a window for the purpose of directing a beam of light.

In Claims 1 and 8 Coe does not teach means for moving range finding means parallel to said window however, Kitazume teaches a system for measuring irregularities in the road that includes a means for moving a laser (claim 8 Ref.). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide means for moving a range finding means/laser light within a housing as taught by Kitazume for the purpose of including a movable range finding means.

In claims 1 and 8 Coe does not teach gripping means being a handle carried by said proximal end of said housing, a handle carried by said proximal end of said housing; and means carried by said housing and in operational connection a communications port means carried by said handle. Whitehead teaches gripping means 74 is a handle carried by said proximal end of said housing {fig. 11}, a handle carried by said proximal end of said housing; and means carried by said housing and in operational connection with a communications port means carried by said handle (claim 8){fig. 11}.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the tire profile apparatus taught by Coe et al with gripping means in operational connection with the range finding means and a communication port and moving means for the purpose of creating a handheld tire profile apparatus as taught by Whitehead.

2. Claims 2-7 and 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coe et al in view of Whitehead. Coe et al teaches the basic features of the claimed invention for example:

In claim 2 Coe does not teach a housing having an arcuate edge formed at a proximal and distal end to provide support. However since Coe et al at least has means for supporting a tire {fig. 1}, it would have been an obvious matter of design choice to modify a tire support to be arcuate since the applicant has not disclosed that this arcuate edge solves any stated problem other than supporting a tire and it appears that the invention would perform equally as well with any type of tire support.

In claim 3 Coe et al does not teach a communication port carried by a gripping means. Whitehead teaches gripping means 74/90 that carries a communication port/processor. Therefore, it would have been obvious to a person modify the tire profile apparatus taught by Coe et al that includes a processor/communication port 32 to include a gripper as taught by Whitehead for the purpose of creating a handheld unit 90 as taught by Whitehead.

In claims 4 and 9 Coe et al teaches a communications port {abstract} 32 that transmits distance data using infrared transmission 30.

In claims 5 and 10 Coe et al does not use radio frequency transmission however, it would have been an obvious matter of design choice to a person

Art Unit: 2855

having ordinary skill in the art of transmitting data to use a radio frequency, since the applicant has not disclosed that a radio frequency solves any stated problem and it appears that the invention would perform equally as well with laser/infrared transmission as taught by Coe et al.

In claims 6 and 14 Coe et al does not teach a communication port carried by a gripping means being a handle. Whithead teaches gripping means 74/90.

Therefore, it would have been obvious to a person modify the tire profile apparatus taught by Coe et to include a gripper as taught by Whitehead for the purpose of creating a handheld unit 74/90 as taught by Whitehead.

In claims 7 and 13 Coe et al teaches range finding means {claim 7 ref.} and computer/display 34 but does not teach a hand held computer communication with range finding means having means for plotting distance data.

Whitehead teaches a hand held computer having a display and means for plotting data. It would have been obvious to a person having ordinary skill in the art to modify the range finding means and computer taught by Coe et al to include a hand held computer 90 as taught by Whitehead and plot whatever data or dimensions needed as taught by Coe et al {abstract} and Whitehead for the purpose of creating a hand held tire profile apparatus that plots distance.

In claim 11 Coe et al being a non-contact apparatus does not teach tire engaging means carried by the proximal end for engaging the side of a tire.

Whithead teaches an apparatus that contacts the rolling surface of the tire therefore it would have been obvious to a person in the art of tire analysis at

the time the invention was made to engage the surface as taught by

Whithead or the side wall for the purpose of profiling a particular surface of a tire.

In claim 12 Coe et al at least teaches a window that directs a beam of light and analyzes the tread of a tire however, Coe et al does not teach the window contacting the tread of a tire. It would have been an obvious matter of design choice to contact the surface as claimed or non-contact as taught by Coe et al, since the applicant has not disclosed that contacting the surface of the tire solves any stated problem or is for any particular purpose and it appears that the invention would perform equally as well by non-contact as taught by Coe.

2. Claims 15 and 19-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whitehead. Whitehead teaches the basic features of the claimed invention for example:

In claim 15 a handheld probe 90, scanning the rolling surface with the probe 90, communicating to a computer having a display {fig. 11} and plotting profiles on the display 82. However Whitehead does not teach engaging the tire. It would have been obvious to a person having ordinary skill in the art of tire profiling apparatus's at the time the invention was made to contact a surface/side of a tire for the purpose of having a contacting apparatus instead of non-contact as taught by Whitehead.

With respect to claims 19,20 determining whether tires comply with government regulations, it would have been obvious to one having ordinary

skill in the art at the time the invention was made to use government tire regulations to determine whether they are compliant since it is well known in the tire art that tire manufactures must meet government regulations before they are manufactured or replaced.

In claim 21 Whitehead teaches providing a handheld probe having a handle 74 and a communications port/processor 48 that communicates profiles to a computer 82 84.

In claim 22 Whitehead teaches a communications port that transmits distance data using infrared transmission 41.

In claim 23 Whitehead does not use radio frequency electromagnetic wave transmission however, it would have been an obvious matter of design choice to a person having ordinary skill in the art of transmitting data to use a radio frequency, since the applicant has not disclosed that a radio frequency solves any stated problem and it appears that the invention would perform equally as well with laser/infrared transmission as taught by Whitehead.

In claim 24 Whitehead teaches the use of a handheld probe 90 for scanning a tire {fig. 11}.

Response to Arguments

3. Applicant's arguments filed 12-4-02 have been fully considered but they are not persuasive.

In response to the applicants arguments that the cited art does not teach engaging the side of a tire. Since Whitehead at least engages a portion of the tire, it would have been obvious to a person having ordinary skill in the art of profiling tires to engage whatever side of the tire necessary. Since the cited art and the invention as claimed scans and profiles a tire surface as claimed, it would have been clearly obvious to engage the tire, since that is a common practice in the art of tire analogy.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre J. Allen whose telephone number is 703-3081989. The examiner can normally be reached on mon-fri 8:00-4:30.

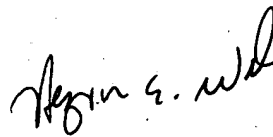
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on 703-305-4705. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-3432 for regular communications and 703-308-3432 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

Art Unit: 2855

A.J.A

February 24, 2003

A handwritten signature in cursive script, appearing to read "Hezron Williams", written in black ink.

HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800